

Order

Michigan Supreme Court
Lansing, Michigan

October 25, 2005

Clifford W. Taylor,
Chief Justice

ADM File No. 2004-42

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Amendment of Rules 8.107
and 8.110 of the
Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 8.107 and 8.110 of the Michigan Court Rules are adopted, effective January 1, 2006. The Court has declined to adopt the proposal to amend Rule 8.103 published June 7, 2005.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 8.107 Statement by Trial Judge as to Matters Undecided

- (A) Time. Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and for production of transcripts. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission. For the purpose of this rule, the time of submission is the time the last argument or presentation in the matter was made, or the expiration of the time allowed for filing the last brief or production of transcripts, as the case may be.
- (B) Report as to Matters Undecided. Every trial judge shall, on the first business day of January, May, and September, April, July, and October of each year, every trial judge shall file a certified statement with the chief judge state court administrator a certified statement in the form prescribed by the state court administrator, containing full information on any matter submitted to the judge for decision more than 4 months earlier which remains undecided. The judge shall also set forth in the statement the reason a matter remains undecided. For the purpose of this rule the time of submission is the time the last argument or presentation in the matter was made or the expiration of the time allowed for filing the last brief, as the case may be. If the judge has no cases to report, the word "none" on a signed report is required. The statement shall provide information on all matters pending during

the reporting period that were not decided within 56 days from submission. The judge shall state the reason that a decision was not made within 56 days. A report is required regardless of whether there is any case to report. The chief judge shall sign and file, or electronically submit, the statement with the state court administrator.

Rule 8.110 Chief Judge Rule

(A)-(B) [Unchanged.]

(C) Duties and Powers of Chief Judge.

(1) [Unchanged.]

(2) As the presiding officer of the court, a chief judge shall:

- (a) call and preside over meetings of the court;
- (b) appoint committees of the court;
- (c) initiate policies concerning the court's internal operations and its position on external matters affecting the court;
- (d) meet regularly with all chief judges whose courts are wholly or partially within the same county;
- (e) represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, the general public, and the news media, and in ceremonial functions;~~and~~
- (f) counsel and assist other judges in the performance of their responsibilities;~~;~~ and
- (g) cooperate with all investigations conducted by the Judicial Tenure Commission.

(3)-(4)[Unchanged.]

(5) The chief judge of the court in which criminal proceedings are pending shall have filed with the state court administrator a monthly report setting forth the reasons for delay in the proceedings:

- (a) ~~in felony cases in which there has been a delay of 28 days between the hearing on the preliminary examination or the date of the waiver of the preliminary examination and the arraignment on the information or indictment; more than 154 days between the order binding the defendant over to circuit court and adjudication;~~
- (b) ~~in felony cases in which there has been a delay of 6 months between the date of the arraignment on the information or indictment and the beginning of trial;~~
- (b) (e) in misdemeanor cases and cases involving local ordinance violations that have criminal penalties in which there has been a delay of 6 months— more than 91 days between the date of the arraignment defendant's first appearance on the warrant and complaint or citation and the beginning of the trial adjudication;
- (c) In computing the 91-day and 154-day periods, the court shall exclude periods of delay
 - (1) between the time a preadjudication warrant is issued and a defendant is arraigned;
 - (2) between the time a defendant is referred for evaluation to determine whether he or she is competent to stand trial and the receipt of the report; or
 - (3) during the time a defendant is deemed incompetent to stand trial.
- (d) ~~in felony cases in which a defendant is incarcerated longer than 6 months and in misdemeanor cases in which a defendant is incarcerated longer than 28 days.~~

(6)-(7)[Unchanged.]

(D) [Unchanged.]

Staff Comment: New MCR 8.107(A) requires a judge to decide matters promptly after submission. MCR 8.107(B) requires a judge to submit quarterly reports that include information on all matters pending during the reporting period that were not decided within 56 days of submission.

The amendments of MCR 8.110(C) require monthly reports to the state court administrator in felony cases where there has been a delay of more than 154 days between the order binding a defendant over to circuit court and adjudication in felony cases, or a delay of more than 91 days between a defendant's first appearance on the warrant and complaint, or citation, and adjudication in misdemeanor cases and local ordinance violations that carry criminal penalties.

The staff comment is not an authoritative construction by the Court.

CAVANAGH, KELLY, and WEAVER, JJ. We oppose the amendment of the reporting deadlines in Rules 8.107 and 8.110 of the Michigan Court Rules.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 25, 2005

Corbin R. Davis
Clerk